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March 26, 2004

Mr. Thomas M. Dorman
Executive Director
Public Service Commission
211 Sower Boulevard
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Frankfort, KY 40602

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PUBLIC SERVICE
COMMISSION

Re: Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC on Behalf of Its Operating Subsidiaries Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC of an Interconnection Agreement With BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, As Amended
PSC 2004-00044

Dear Mr. Dorman:

The Petitioners in this proceeding recently filed a Rebuttal to BellSouth's Reply to their Response to BellSouth's Motion to Sever. This latest filing by the CLECs, in the main, is not a rebuttal at all, but simply a restatement of arguments they have previously made. BellSouth does not want to burden the record by responding once more to the arguments these CLECs make in their Rebuttal for a second time. However, the Rebuttal includes a contention that the CLECs make for the first time, which misrepresents an Order of the Alabama Commission. Accordingly, BellSouth is filing this letter only to bring this specific issue to the attention of the Commission.

In the Rebuttal, the CLECs claim that "no state has granted BellSouth's Motion to Sever." Further, they state "that the Alabama Public Service Commission issued an Order on March 16, 2004 effectively denying BellSouth's Motion to Sever." (Rebuttal, p. 2, footnote 1). Neither of these statements is true. BellSouth's Motion to Sever (as filed in Alabama, before this Commission, and before every other Commission in BellSouth's region), requested that the arbitration be severed into separate proceedings or, that the respective Commission institute certain procedural restrictions that are necessary to prevent a joint proceeding from becoming completely unmanageable. Although the Alabama Commission did not order the severance of this proceeding into separate

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proceedings, it did order precisely the procedural restrictions that BellSouth requested. In pertinent part, the Order states the following:

Petitioners' position must be identical on each issue. Petitioners may sponsor one witness per issue or subissue.

(Procedural Ruling, Docket 29242, Alabama Public Service Commission, p. 4).

The CLECs' contention that the Alabama Commission sustained their position is flatly wrong. Moreover, if the CLECs did prevail in Alabama (as they claim), then they should have no objection to this Commission imposing exactly the same restrictions imposed by the Alabama Panel. Thus, BellSouth submits that the Commission can resolve this dispute by imposing the exact restrictions that are set forth on page 4 of the Alabama Panel's Procedural Ruling (a copy of which was previously provided to the Commission).

As to other states, South Carolina has not issued an Order. However, based on the vote taken March 16, 2004—and the discussion preceding that vote—BellSouth believes that the South Carolina Commission will impose the same restrictions as those imposed in Alabama. The North Carolina Commission declined BellSouth's request to restrict the CLECs' presentation of testimony. The other five State Commissions in BellSouth's region have not ruled on the Motion.

Very truly yours,


for Dorothy J. Chambers

cc: Parties of Record

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